

2) a “linearly driven brush” as shown in Figures 5-8. Figures 2 and 5 of Weihrauch are reproduced below.

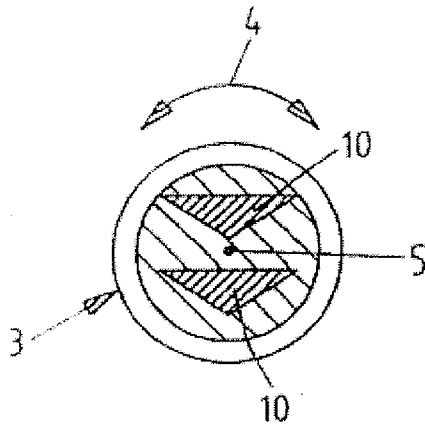


Fig. 2

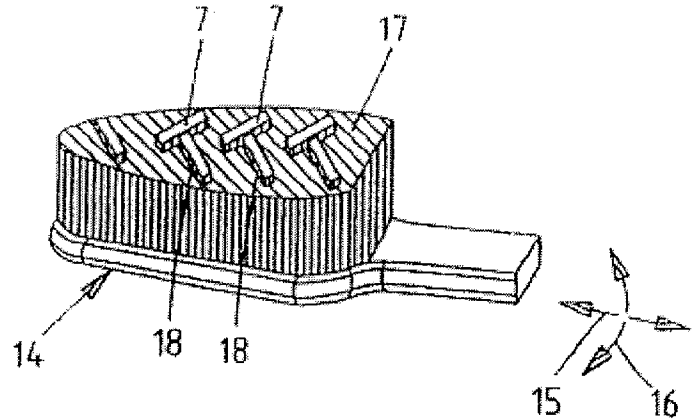


Fig. 5

Not one “electrical toothbrush having a rotating or oscillating brush head” (e.g., Fig. 2) disclosed by Weihrauch has the instantly claimed “top surface having an elongated shape selected from the group consisting of oval, elliptical and rounded diamond.” And contrary to the Examiner’s claim, none of the “linearly driven brush[es]” depicted in Figs. 5-8 include the instantly claimed “lower portion constructed to be rotationally oscillated, relative to the neck, by the motor.”

The Examiner, however, asserts that “directional arrow 16 shows rotational oscillation that is capable of being relative to the neck, Column 3 Lines 43-46.” This is a mischaracterization of directional arrow 16. Unlike directional arrow 4 of Fig. 2, which does suggest rotational oscillation relative to a neck, the positioning of directional arrow 16 only suggests an “oscillating pivoting motion” of the head and the neck as a unit. This does not constitute the claimed configuration of “constructed to be rotationally oscillated, relative to the neck, by the motor.”

Column 3, lines 43-46 of Weihrauch only state that the “linear motion can be overlapped with additional oscillating pivoting motion in accordance with double arrow 16, transverse to the longitudinal axis.” As stated above, this only contemplates a pivoting motion of head and neck as a unit, not a rotational motion of the head relative to the neck. This is very different than the motion depicted for Figures 1-4. There is also no indication within any of Figures 5-8 of any mechanism for allowing rotational motion of the bristle head 14 relative to the neck. Figures 5-8 actually depict the neck, unlike Figures 1-4, and Figures 5-8 clearly show the bristle head 14 and the neck as being part of a unitary, one-piece construction that would not allow for relative rotational oscillation between the head and neck. Accordingly, it is improper for the Examiner to assert that the linear motion brushes of Weihrauch, depicted in Figures 5-8, include “a lower portion constructed to be rotationally oscillated, relative to the neck, by the motor,” as instantly claimed. Additionally, there is no reason why one having ordinary skill in the art would modify the brush head of Figures 5-8 of Weihrauch to allow for rotational oscillation relative to the neck.

Braun and Kressner also do not disclose or suggest a power toothbrush having “a head including a support member, the support member including a lower portion constructed to be rotationally oscillated, relative to the neck, by the motor, and a top surface having an elongated shape selected from the group consisting of oval, elliptical and rounded diamond,” as claimed. Braun is cited for its pivotally mounted elastomeric fins. Kressner is cited for the overall surface area of its circular plate bristle carrier 44. Kressner, col. 3, lines 47-50. Accordingly, neither Braun nor Kressner render the claimed power toothbrush obvious.

For at least the reasons presented above, the rejection of claims 35, 38, 39, 41-43, 45, 46, 48, and 49 is in error and must be withdrawn.

Claims 37, 44, and 50-53 are further rejected under 35 U.S.C. § 103(a) as being unpatentable over Weihrauch in view of Braun and Kressner, and further in view of Nishioka, U.S. Patent No. 4,373,541 (“Nishioka”). This rejection is in error for the same reasons as given above. Nishioka also does not disclose or suggest a power toothbrush having “a head including a support member, the support member including a lower portion constructed to be rotationally

oscillated, relative to the neck, by the motor, and a top surface having an elongated shape selected from the group consisting of oval, elliptical and rounded diamond," as claimed. Accordingly, the rejection is in error and should be withdrawn.

Accordingly, each of the pending claims 35, 37-39, 41-46, and 48-53 defines patentable subject matter over the cited prior art. As such, Applicants request that the Examiner allow the pending claims. It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

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